

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DARRIUS LEON BURKS,

Plaintiff,

Case No. 19-CV-11012

vs.

HON. GEORGE CARAM STEEH

PRENTIS EDWARDS, JR., et al.,

Defendants.

ORDER ACCEPTING MAGISTRATE JUDGE'S
REPORTS AND RECOMMENDATIONS TO DISMISS
PLAINTIFF'S COMPLAINT WITH PREJUDICE [ECF Nos. 39 and 40]

Plaintiff Darrius Leon Burks filed this *pro se* civil rights action on April 5, 2019.¹ The matter is before the court on two reports and recommendations issued by the Magistrate Judge (ECF No. 39, 40). In each instance the Magistrate Judge recommends that plaintiff's complaint be dismissed with prejudice under Federal Rule of Civil Procedure 41(b). Plaintiff did not file timely objections to either report and recommendation.

Defendants Caretti, Cracchialo, Walters and Leitch filed motions to dismiss the complaint (ECF Nos. 13, 17). Burks' response to the motions included notices of voluntary dismissal as attachments (ECF No. 24, 25).

¹ Counsel later appeared for Burks on June 7, 2019.

On October 3, 2019, because Burks did not file the notices of voluntary dismissal in their own right, the court ordered Burks to clarify in writing his intent to voluntarily dismiss the matter pursuant to Rule 41(a)(1)(A)(i). Burks did not respond to the order for clarification by the court-ordered deadline. The court then ordered Burks to show cause why the complaint against these four defendants should not be dismissed with prejudice based on the notices of voluntary dismissal and Burks' failure to comply with the October 3, 2019 order. The order warned Burks that "[f]ailure to timely or adequately respond in writing to this Order to Show Cause will result in a recommendation that the matter be dismissed under Rule 41(b) as to defendants Caretti, Cracchialo, Walters, and Leitch." Plaintiff did not respond to the court's order to show cause.

Similarly, on October 8, 2019, defendants Hathaway and Edwards filed a motion for summary judgment (ECF No. 30). Burks did not file a timely response to the motion. On December 10, 2019, the court ordered Burks to respond to the motion for summary judgment, or to show cause why the complaint against the two defendants should not be dismissed with prejudice based on Burks' failure to respond to the motion for summary judgment. The order warned Burks that "[f]ailure to timely or adequately respond in writing to this Order to Show Cause or timely file a response to

the motion will result in a recommendation that the motion be granted or that the entire matter be dismissed under Rule 41(b).” Plaintiff did not respond to the order to show cause or file a response to the motion for summary judgment.

This court agrees with and adopts the analysis conducted and recommendations made by the Magistrate Judge for dismissing a claim for failure to prosecute or comply with an order under Fed. R. Civ. P. 41(b). Now, therefore, for the reasons stated by the Magistrate Judge, the recommendations are adopted as orders of the court.

IT IS HEREBY ORDERED that plaintiff’s complaint against defendants Caretti, Cracchialo, Walters and Leitch is DISMISSED with prejudice.

IT IS HEREBY FURTHER ORDERED that plaintiff’s complaint against defendants Hathaway and Edwards is DISMISSED with prejudice.

IT IS HEREBY FURTHER ORDERED that defendants’ motions to dismiss (ECF Nos. 13, 17), motion for summary judgment (ECF No. 30) and motion for letters rogatory (ECF No. 3) are terminated as moot.

Dated: January 21, 2020

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE